2005 Hurricane Season
USACE-internal RAP Workshop
17-19 Jan 06

Contracting Focus Group

Presentation of

Successes and Issues

Contract Focus Group

Proponent: Contracting

Issue/Issue Statement Background (Primary Discussion Points)	Recommendation and Recommended Action Lead	Status of Ongoing Resolutions and/or any Obstacles
Issue 1 – Contracting functions are not being performed to the level that will withstand audit and that will insure contract award and administration. This is a result of several factors. 1) 30 day rotational assignments do not permit specialists time to understand the contracts and then perform 2) Lack of volunteers 3) Lack of contract administration skills	First and foremost, COE contract specialists must develop competent contract administration skills. Contract enforcement rests on the specialists. They provide the continuity in contract execution and insuring that the execution is within the scope of the contracts. In the Louisiana recovery operations, not only have task orders and contracts been negotiated and issued, but constant monitoring of subcontracting statistics, subcontractor payment issues, response to legislative inquiries, meetings with contractors and mission specialists to resolve performance issues, copious on-site meetings with PMS and contractors to insure progress and coordinate efforts are being done by contracting specialists. This is considered part of overall contract administration. The process	

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Issue - 1 (Con ’t) – Contracting functions are not being performed to the level that will withstand audit and that will insure contract award and administration.	Minimal assignments should be 60 days with a preference of 90 days to provide continuity. Consider pre-placed MOUs with other agencies for long term support as needed in the event of a disaster. This would facilitate staffing at an appropriate level, given the nature of the event. Suggested Action Leads: Training issues – PARC, DOCs and Contracting chiefs. Staffing – PARC Obstacles: Resources both personnel and funding	

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Issue – 2 Awarding only one contract for debris removal has impacted performance in Mississippi. Short suspense in award has created not receiving appropriate documents i.e., bonds, safety plans, site management plans which have impacted the Government's ability to manage the contract. Once contractor has mobilized and began performance under an emergency situation there is no feasible mechanism to stop the work.	Awarding to more than one contract provides the Contracting Officer with the necessary leverage to enforce the terms and conditions of contract. With only one contractor performing the mission the Contracting Officer cannot halt the contractor without jeopardizing the well-being of others (as this is an emergency disaster relief operation). Award to multiple contractors Lead: OPARC, DMP, DCW	Obstacles: None
Issue – 3 Too much confusion at the onset of getting a disaster mission going that causes inefficiency in the	A "Quick Start Guide" would be helpful in addition to the Contract Administration Guide. Coordination by the ACI contract district with the district affected and	Obstacles: Funding as HQs is mandating that all districts reduce overhead costs.

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Issue – 3 (Con’ t) Too much confusion at the onset of getting a disaster mission going that causes inefficiency in the ability to execute contract actions quickly and comfortably (as was my experience with the Power Mission for the Hurricane Rita disaster). Lines of responsibility not clear (there is one district that holds the ACI contract as the primary KO; there is another district that makes up the PRT; there is a third district that is the KO for the task orders). Also, the names of the POCs at the district holding the contract were not readily Available		

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Issue – 4 Type of contract and structure of contract may not be the proper tool for certain ACI mission areas, like the power mission. Contract did not have nearly enough pre-priced line items to cover the effort for this Hurricane. PRT members were ordering work as “taskers” when there was no line item to cover such work. For example, preparation only of all task orders prior to install. Contract value per year is not large enough to meet most power needs. For example, the contract value for support after Hurricane Rita was 6 times the maximum contract value for the year for Area Four. Confusion of	It would be extremely helpful if an AAR between Pittsburgh District, the District Office where the work is occurring (KO responsible) and the PRT could be performed and shared with Districts alike so we could avoid pitfalls/problems other offices have encountered. The AAR address the contract type and structure and discuss potential changes in subsequent contracts. Lead: HQs in conjunction with lead ACI contract districts.	Obstacles: Funding as HQs is mandating that all districts reduce overhead costs.

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Issue – 5 It often takes a lot of extremely valuable time to educate the Contracting Officer from an affected district on an ACI contract. Usually the ACI contract was let at a different district and the affected district's Contracting Officer has no experience with that particular contract. The contract needs to be executed immediately, especially during the response phase of a disaster.	Proposal #1: Each PRT has a Contracting Officer as part of the team and the contract actions are executed through the home district of the responding PRT. Proposal #2: The contract actions are executed through the home district of the responding PRT with the Contracting Officer staying at the district office rather than deploying with the team. Lead: HQUSACE	ANY OBSTACLES: Proposal #1: Contracting Officers that are available to deploy. Proposals #1&2: Internal USACE politics of contracting actions in an affected district being performed external to the district.

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Issue – 5 Due to political concerns to award contracts to Small Business in the effected area and not enough contract capacity, we could not utilize our ACI contract to its full potential to meet the mission requirement. We were requested to award an ACI Roofing contract Not-To-Exceed $10 Million for counties along the State of Texas. The contract was awarded on 15 July 2005 utilizing the best value method. The Contract included language that the Government reserve the right to mobilize additional to meet the disaster response mission requirements.	Allow the Districts to utilize their ACI contract with sufficient capacity, maintain the focus to Large and Small Business of the requirements of the Robert T. Stafford Act to ensure preference is given to firms doing business in the affected area for subcontracting opportunities. In order to maintain awards to Small Business, provide solicitations for Small Business, 8(a), and HubZone Set-Aside based upon the Market Surveys for the Nation-Wide ACI contracts. All ACI contracts awarded should have sufficient capacity to meet the mission requirements without having to award additional contracts to supplement our needs or political concerns. Lead: USACE coordinating with the Deputy for Small Business for each district and the Small Business Administration to insure maximum	Obstacles: If we have to award additional contracts during emergencies, we run into the strong possibility to set-aside and award these contracts to small business. The political concern will be for the districts to award as many of these contracts to small business in the affected areas that are not familiar with Federal Contracts.

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In order to meet mission requirements and the political concerns we had to solicit, negotiate, and award three additional contracts as follows: two Sole Source 8(a) contracts and one competitive 8(a) contract. During this process we received two protests. The protest required us to stop the award process while the Contracting Officer and Office of Counsel address the protest issues. This was a time consuming process that required coordination with the Division/District Counsel.		

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The downside of having to award contracts in the affected areas was a very compressed schedule and the number of additional problems we encountered. These included the scope of work that perhaps not as clearly written as we would like and the number of protests received from small business firms that felt the contracts should have been awarded to them due to problems with the unit prices submitted by the low bidders. Due to the required Ramp-up process for the additional contracts, we had to obtain permission to increase the		

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As with other emergency situations performing Quality Assurance (QA) on the temporary roofing by both the Government and contractors personnel proved to be challenging. If the QA was not coordinate as it should have been between the Government and the contractor's QA, you run into problems with temporary roofing being installed correctly. We ran into a myriad of problems with some homes not having temporary roofs installed correctly, temporary roof installed on the wrong homes, lost or unaccounted ROE's, etc. We		

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Positive thing for contracting with small business is the opportunities for these firms to obtain contracts and perform for the Government. Issue – 6 Many complaints have been received from subcontractors concerning the amount they are being paid as subcontractors on the roofing and debris contracts. The media has also published many articles that have been critical of the small amount subs are being paid as compared to the amount primes are being paid. A number of the complaints have been	Recommend that any new ACI awards for debris and roofing contain language that limits the number of subcontracting tiers to no more than two. Lead: OPARC should issue a Procurement Policy Letter (PIL) directed at future awards of ACI debris and roofing contracts.	

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SUCCESS – Dedication and hard work of the folks doing the work. Great success story – people dedicated to do the missions. Issue – Roofing Contract Tiers	Can only check on 1st tier subs, not second tier. Do we restrict ourselves from other subs if we don't have enough contractors, even down 2 tiers? There is nothing to limit the number of subs on each tier.	